

Remarks

After entry of this Amendment, the pending claims are: claims 8-20 and 22-25. The Applicant would first like to thank the Examiner for the allowance of the subject matter disclosed in claims 8-17, 19, 20, and 22-25 if rewritten or amended to overcome the 35 U.S.C. §112¶2 rejection. The Office Action dated January 13, 2004 has been carefully considered. Claim 18 has been amended. To expedite prosecution of the present application, claims 21 and 26 have been cancelled without prejudice to be pursued in a divisional, continuation, or continuation-in-part application, if the Applicant so desires. No new matter has been added. Reconsideration and allowance of the present application in view of the above amendments and the following remarks is respectfully requested.

In the Office Action dated January 13, 2004, the Examiner:

- rejected claims 8-20 and 22-25 under 35 U.S.C. §112¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. More specifically, the Examiner rejected claims 8-17, 19, 20, and 22-25 for providing no antecedent basis for the third width and claim 18 as being unclear;
- rejected claim 18 under 35 U.S.C. §102(e) as being anticipated by United States Patent No, 6,206,923 to Boyd *et al.* ("Boyd");
- rejected claim 21 under 35 U.S.C. §102(e) as being anticipated by United States Published Patent Application No. 2002/0107570 to Sybert *et al.* ("Sybert"); in view of Applicant's cancellation of claim 21, without prejudice, this rejection is deemed moot;
- rejected claim 26 under 35 U.S.C. §103(a) as being unpatentable over Boyd in view of United States Patent No. 5,084,051; in view of Applicant's cancellation of claim 26, without prejudice, this object is deemed moot; and
- objected to claims 8-17, 19, 20, and 22-25 for failing to comply with 35 U.S.C. §112¶2 as described above, but otherwise allowable if rewritten or amended.

35 U.S.C. §112¶2 Rejection

Claims 8-17, 19, 20, and 22-25 were rejected under 35 U.S.C. §112¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically claims 8-17, 19, 20, and 22-25 were rejected for lacking antecedent basis in the specification for the third width. It is respectfully submitted that independent claim 8 is directed to the plate as depicted in Figure 29.

Specifically, as shown in Figure 29, the plate comprises, *inter alia*, a unitary body with a pair of portions each having a first width and a central portion disposed therebetween having a second width, the unitary body further having at least one partially demineralized region with a third width smaller than the second width. As clearly shown in Figure 29 the at least one partially demineralized region 188 has a width smaller than the first or second width. It is respectfully submitted that, in view of Figure 29, independent claim 8 satisfies the requirements of 35 U.S.C. § 112¶2. Withdrawal of this rejection and allowance of independent claim 8 is respectfully requested.

Claim 18 was rejected under 35 U.S.C. §112¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically claim 18 was rejected for being unclear. As amended, independent claim 18 recites a plate comprising a unitary body formed of cortical bone having a first portion, a second portion, and a central portion extending therebetween, the first and second portions having a first width, the central portion having a second width, wherein the first width is greater than the second width; and wherein only a portion of the central portion is at least partially demineralized for conferring flexibility to the plate. It is respectfully submitted that independent claim 18, as amended, satisfies the requirements of 35 U.S.C. § 112¶2. Withdrawal of this rejection and allowance of independent claim 18 is respectfully requested.

Independent Claim 18

Independent claim 18 was rejected under 35 U.S.C. §102(e) as being anticipated by Boyd. Independent claim 18, as amended, recites, *inter alia*, a plate comprising a unitary body formed of cortical bone having a first portion, a second portion, and a central portion extending therebetween, the first and second portions having a first width, the central portion having a second width, wherein the first width is greater than the second width; and wherein only a portion of the central portion is at least partially demineralized for conferring flexibility to the plate. There is no disclosure, teaching, or suggestion in Boyd of providing a bone plate comprising a first portion, a second portion, and a central portion extending therebetween, wherein only a portion of the central portion is at least partially demineralized.

Rather, Boyd discloses a first rigid portion 12, a second rigid portion 14, and an intermediate portion 16 wherein the entire intermediate portion 16 has been at least partially demineralized. It is respectfully submitted that the cited prior art does not disclose, teach, or

suggest a bone plate wherein only a portion of the central portion is at least partially demineralized.

Therefore, it is respectfully submitted that Boyd does not disclose, teach, or suggest all of the limitations of independent claim 18. Thus, it is respectfully submitted that independent claim 18 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 18 is therefore respectfully requested.

In light of the above amendments and remarks, it is respectfully submitted that claims 8-20 and 22-25 are now in condition for allowance, and the Examiner is respectfully requested to reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at 212-790-6348, if a telephone call could help resolve any remaining issues.

Respectfully submitted,

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